

### **REMARKS**

Claims 1, 2, and 5-27 are currently pending. Applicant would like to thank the Examiner for indicating that claims 6, 10-17, 21-23, 26 and 27 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In the Office Action, the Examiner rejected claims 5 and 18 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner rejected claims 1, 2, 7, 9, 18-20, 24, and 25 under 35 U.S.C. §103(a) as being allegedly unpatentable over U.S. Patent Number 3,408,250 to Finefrock ("Finefrock") in view of U.S. Patent Number 4,706,427 to Zeilinger ("Zeilinger"). The Examiner rejected claims 1 and 8 under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,195,287 to Bruggink ("Bruggink"). For the reasons detailed below, the rejection should be withdrawn and the claims should be allowed to issue.

### **Applicant's Reply**

In this Response, Applicant has amended claims 5 and 18 and addressed the Examiner's rejections. Support for the amendments to the claims can be found throughout the application. Accordingly, no new matter has been added. Amendments to the claims are being made solely to expedite prosecution and do not constitute an acquiescence to any of the Examiner's rejections. Applicant's silence with regard to the Examiner's rejections of the dependent claims constitutes a recognition by the Applicant that the rejections are moot based on the Applicant's Amendments and Remarks relative to the independent claim from which the

dependent claims depend. Applicant reserves the option to further prosecute the same or similar claims in the present or a subsequent Application.

### **I. Claim Rejections - 35 U.S.C. §112**

The Examiner rejected claims 5 and 18 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner objected to the phrase “can be” in claims 5 and 18. Applicant has removed the use of “can be” from claim 5 and has replaced “can be secured” with “is adapted to fit” in claim 18. Applicant therefore kindly asks the Examiner to remove the rejections under 35 U.S.C. § 112.

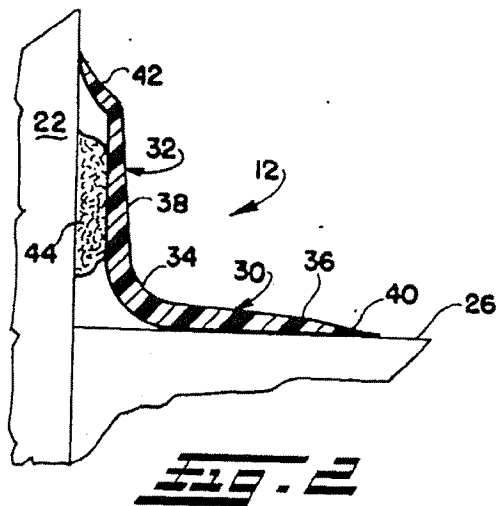
### **II. Claim Rejection - 35 U.S.C. §103(a)**

The Examiner rejected claims 1, 2, 7, 9, 18-20, 24 and 25 under 35 U.S.C. §103(a) as being allegedly unpatentable over Finefrock in view of Zeilinger.

As provided herein, none of the cited references, whether considered separately or in combination, provides a teaching or suggestion of all the claimed features. As such, Applicant’s failure to address the other elements of a *prima facie* case of 35 U.S.C. § 103(a) does not constitute an admission that such elements are satisfied, but rather a recognition that such elements are moot given the Examiner’s failure to provide a showing of all the claimed features. Applicant reserves the option to comment on such other elements in further prosecution.

Independent claim 1 is directed to a finishing unit for floor covering that includes, *inter alia*, “a floor covering facing front part wherein the front part is provided with attaching means suitable for attaching the finishing unit to the floor covering.”

As acknowledged by the Examiner, Finefrock neither discloses nor suggests a front part provided with attaching means suitable for attaching the finishing unit to the floor



covering as claim 1 recites. (See Office Action, page 3). The Examiner states that this feature is disclosed in Zeilinger. (See *id.*) The Examiner asserts that flexible sealing lip 40 in Zeilinger is an attaching means as recited in claim 1. The flexible sealing lip 40 is shown in Figure 2 of Zeilinger, which is reproduced herein for the Examiner’s convenience. However, flexible sealing lip 40 is for resiliently pressing against the bathtub top

26 to provide a barrier against water entry and is not an attaching mean located on the front part as claim 1 recites. The only attaching means discussed in Zeilinger is the butyl adhesive 44 (also shown in Figure 2), which is provided on the back of vertical leg 32. Thus, Zeilinger neither discloses nor suggests a front part provided with attaching means suitable for attaching the finishing unit to the floor covering as claim 1 recites.

Since claim 1 is allowable, claims 2, 5, 7-9, 18-20, 24, and 25 depending therefrom are also allowable.

### III. Claim Rejection - 35 U.S.C. §102

The Examiner rejected claims 1 and 8 under 35 U.S.C. §102(b) as being allegedly anticipated by Bruggink.

Independent claim 1 is directed to a finishing unit for floor covering that includes, *inter alia*, “a floor covering facing front part wherein the front part is provided with attaching means suitable for attaching the finishing unit to the floor covering.”

Bruggink neither discloses nor suggests a front part provided with attaching means suitable for attaching the finishing unit to the floor covering as claim 1 recites. The Examiner designates flexible layer 18 as the attaching means. Applicant disagrees that the flexible layer 18 is an attaching means suitable for attaching a finishing unit to a floor covering, as claim 1 recites. However, even assuming that Bruggink’s flexible layer 18 could be an attaching means as claimed, it is clear from Figures 1 and 2 of Bruggink that the flexible layer 18 is provided on the back of the raceway panel 10. Figure 1 of Bruggink (as reproduced below for the convenience of the Examiner) is a front view of the panel and the flexible layer 18 is not shown:

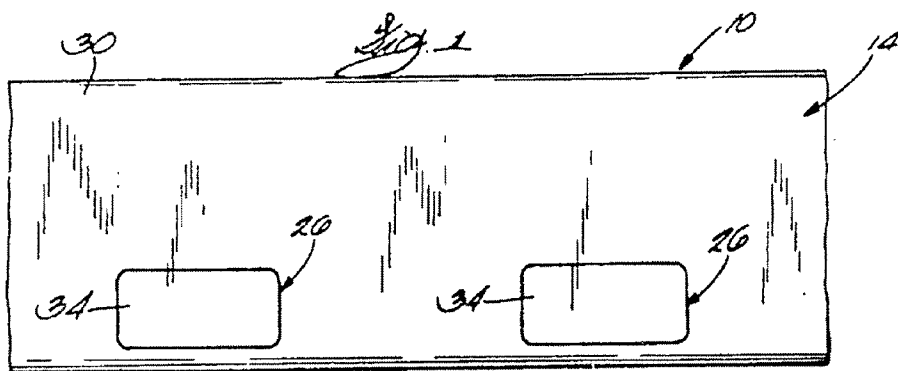
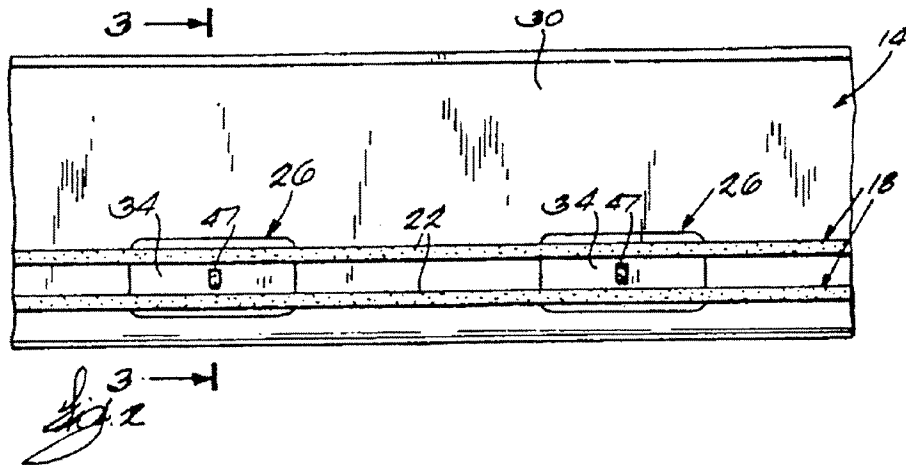


Figure 2 of Bruggink, on the other hand, is a rear view of the panel and depicts the flexible layer 18:



Thus, Bruggink neither discloses nor suggests a front part provided with attaching means suitable for attaching the finishing unit to the floor covering, as claim 1 recites. Claim 1 is therefore allowable over Bruggink.

Since claim 1 is allowable, claim 8 depending therefrom is also allowable.

#### IV. CONCLUSION

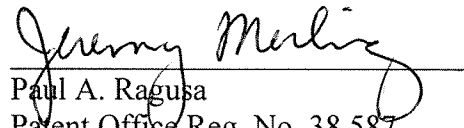
Entry of the foregoing amendments and remarks into the file of the above-identified application is respectfully requested. Applicant believes that claims 1, 2, and 5-27 are in condition for allowance. Withdrawal of all rejections and reconsideration of the amended claims is requested. An early allowance is earnestly sought.

Applicant believes that no additional fees are due in the timely filing of this response. In the event that fees are due, or overpayment is made, however, the Director is hereby authorized to charge payment of any such fees, or to credit any overpayment, to Deposit Account No. 02-4377.

If there are any remaining issues to be resolved, Applicant respectfully requests that the Examiner kindly contact the undersigned attorney for early resolution.

Respectfully submitted,

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